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OFFICE OF PETITIONS

In re Application of :
Walke et al. :
Application No. 09/863823 :
Filing or 371(c) Date: 05/23/2001 :
Attorney Docket Number: :
LEX-0180-USA : **ON PETITION**

This is a decision on the "Renewed Petition Under 37 CFR 1.181(a) Requesting Withdrawal of Holding of Abandonment, filed October 10, 2006. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely file a brief after filing a Notice of Appeal. A final Office action was mailed May 19, 2003. Applicant filed a Notice of Appeal in response to the final Office action on August 22, 2003. Thereafter, Applicant was required to file a brief in support of the Appeal within two (2) months of filing the Notice of Appeal. Extensions of time under 37 CFR 1.136(a) were available. No brief in support of the appeal having been filed, the application became abandoned October 23, 2003. A Notice of Abandonment was mailed September 21, 2005.

Applicant filed a petition to withdraw the holding of abandonment on October 24, 2005, wherein Applicant asserted that a timely Appeal Brief was filed on January 22, 2004, including a request for a three (3) month extension of time and fee. In support of this assertion, Applicant filed a copy of the Appeal Brief and a copy of his return-receipt postcard acknowledging receipt by this Office of the Reply on January 22, 2004.

A review of the return-receipt postcard revealed that the this Office acknowledged receipt of an Appeal Brief and a request for a three (3) month extension of time and fee on January 22, 2004. However, a review of the petition papers revealed that a copy of the putatively-filed extension of time and fee had not been included among the petition papers.

The petition was dismissed in a Decision mailed August 28, 2006. A copy of the request for a three (3) month extension of time and fee were required.

The present renewed petition


Applicant filed the present renewed petition and has included a copy of the request for a three (3) month extension of time and fee.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 1647 for processing of the Appeal Brief and extension of time and fee, and for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


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Office of Petitions